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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,965	07/11/2001	Steven B. Dunn	MBI-1067	9235

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EXAMINER

WILSON, PAMELA ANNE

ART UNIT PAPER NUMBER

3749

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,965

Applicant(s)

DUNN ET AL.

Examiner

Pamela A Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on or before 2/6/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Protestor's Arguments

The examiner has reviewed the Protest, filed on April 5, 2002 as paper #2, that has been submitted under Rule 291(a) in the instant application.

The Protest has presented the British Patent No. 160,098 as anticipating the Applicant's claim numbers of 1-4. The Applicant has cancelled these claims and thus such arguments against allowing these claims is moot.

The Protest further states that claim 5 is unpatentable over the prior art of the Swiss Patent 685919 ('919), the Safety 1st or Mommy's Helper publications further in view of either the British Patent No. 160,098 ('098), U.S. Patent No. 2,472,028 awarded to Son (Son), or further in view of U.S. Patent No. 2,441,417 awarded to Hopkins (Hopkins), U.S. Patent No. 2,039,927 awarded to Poglein (Poglein) or U.S. Patent No. 5,492,237 awarded to Chang (Chang). However, the Swiss Patent '919 or the publications of Safety 1st or Mommy's Helper do not claim a structure which is specifically for supporting baby bottles and further the British Patent '098 and of Son fail to disclose or suggest an apparatus for supporting baby bottles, as specifically called for in the claim language of the instant application.

The Protest also states that claims 6-12, which depend from claim 5, either directly or indirectly, are believed to be rejectable under the prior art of Son. However, since claim 5 is deemed to be patentable over the prior art of record; therefore, claims 6-12 are also patentable and do not require further review under the prior art of Son.

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The Protest continues with independent claim 13 which presents an apparatus for supporting articles for drying, which in the body of the claim defines those articles as being baby bottles. Again, The Swiss Patent of '918, the British Patent of '098 or the patent of Son does not disclose or teach of an apparatus for supporting baby bottles, as specifically called for by the Applicant's claim language. Thus, claim 14 which directly depends from claim 13 and claim 15 which indirectly depends from claim 13 are deemed to be patentable over the prior art of record.

Drawings

The drawing corrections that were received on February 6, 2003 have been disapproved since the figure is not labeled "amended". The changes made to the drawings themselves would be approved if the figure were labeled properly.

Proposed Changes to Applicant's Amendment

In a telephone conversation with Mr. John Knoble on May 27, 2003 the following changes to the Applicant's Amendment, filed on February 6, 2003 (as paper #8) were agreed upon:

Page 2, line 19 and page 3, line 2 "ring" has been deleted and – ring – has been inserted,

Page 3, line 5, "disks" has been deleted and – [discs] disks – has been inserted, and,

Page 3, line 7, "discs" has been deleted and – disk – has been inserted.

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An amendment is now required to augment the aforementioned changes into the Applicant's Amendment of February 6, 2003.

Supplemental Oath/Declaration Required

The reissue oath/declaration filed with this application is defective because of the proposed changes to the Applicant's Specification that will be augmented into the Applicant's Amendment of February 6, 2003 and the drawing revisions submitted on February 6, 2003. A supplemental oath/declaration is required which will cover all corrections which transpire after the filing of the original reissue oath/declaration.

Claim Rejections based on Defective Oath/Declaration

Claims 5-15 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath/declaration is set forth in the discussion above in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pamela A Wilson whose telephone number is 703/308-2620. The examiner can normally be reached on Tues-Wed (6:30 a-3:00 p) and alternating Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703/308-1935. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703/305-7764 for regular communications and 703/305-7764 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/308-0861.



Pamela A Wilson

Primary Examiner

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paw

January 6, 2004